



Senate

General Assembly

File No. 194

January Session, 2007

Substitute Senate Bill No. 1330

Senate, March 29, 2007

The Committee on Energy and Technology reported through SEN. FONFARA, J. of the 1st Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING ENVIRONMENTAL JUSTICE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2007*) (a) As used in this
2 section:

3 (1) "Environmental justice" means the equal protection and
4 meaningful involvement of all people, regardless of race, ethnicity or
5 income, in the development, implementation and enforcement of
6 environmental laws, regulations and policies;

7 (2) "Environmental justice community" means a United States
8 census tract, as determined in accordance with the most recent United
9 States census (A) for which fifty per cent or more of the population
10 consists of low income persons who are not institutionalized and have
11 an income below two hundred per cent of the federal poverty level, or
12 (B) an environmentally stressed community, as defined in subdivision
13 (3) of this subsection.

14 (3) "Environmentally stressed community" means a United States
15 census tract in which three or more affecting facilities are located
16 within a one-mile radius or in which a limited access highway and two
17 or more affecting facilities are located within one-half mile; and

18 (4) "Affecting facilities" means electric generating facilities, sludge or
19 solid waste incinerators or combustors, sewage treatment plants with a
20 capacity of more than fifty gallons per day, intermediate processing
21 centers, volume reduction facilities, multitown recycling facilities,
22 active landfills, asphalt and concrete batching facilities, major sources
23 of air pollution, as defined by the federal Clean Air Act, and sources
24 with air emissions that exceed the federal Toxic Release Inventory
25 reporting threshold pursuant to the federal Emergency Planning,
26 Community Right-to-Know and Pollution Prevention Act, as defined
27 on January 1, 2007.

28 (b) (1) Not later than January 1, 2009, the Department of
29 Environmental Protection, the Department of Public Utility Control
30 and the Connecticut Siting Council shall each adopt regulations, in
31 accordance with the provisions of chapter 54 of the general statutes,
32 that describe the departments' or council's procedures concerning the
33 consideration of environmental and health effects of all affecting
34 facilities located within one mile of a proposed new or expanded
35 affecting facility in an environmental justice community or an
36 environmentally stressed community, when granting licenses, permits
37 or authorizations or in other decision-making processes that relate to
38 the proposed new or expanded affecting facility. Such procedures shall
39 include, but not be limited to, enhanced public notification and
40 outreach to increase public participation, requirements for negotiated
41 environmental benefits to environmental justice community residents
42 and enhanced enforcement of environmental laws and regulations for
43 new and existing facilities in environmental justice and
44 environmentally stressed communities.

45 (2) Not later than January 1, 2009, the Department of Environmental
46 Protection, the Department of Public Utility Control, and the

47 Department of Transportation shall each adopt regulations, in
48 accordance with the provisions of chapter 54 of the general statutes,
49 describing actions each department shall take to identify opportunities
50 and take appropriate action to encourage investments, remediation
51 and redevelopment in environmental justice and environmentally
52 stressed communities, provided such communities have adopted a
53 local plan of development that is consistent with the state plan of
54 conservation and development.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2007	New section
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Statement of Legislative Commissioners:

In the last sentence of subdivision (1) of subsection (b) of section 1, the words "and affected" were deleted for accuracy.

ET *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Department of Environmental Protection	GF - Cost	See Below	See Below
Various State Agencies	GF - Cost	See Below	See Below
Department of Transportation	TF - None	None	None

Note: GF=General Fund; TF=Transportation Fund

Municipal Impact:

Municipalities	Effect	FY 08 \$	FY 09 \$
Various Municipalities	Cost	See Below	See Below

Explanation

Requiring the Department of Environmental Protection (DEP) to adopt two sets of regulations which would include environmental and health effects of permitting facilities in certain areas and regulations concerning actions to be taken to identify opportunities to encourage investments, redevelopment and remediation in these areas, will require the work of 2 half time analysts for 1 year or consultants at a cost of \$100,000-\$150,000 in FY 2008. In addition, the DEP will require a full time analyst to administer the program at a cost of approximately \$60,000 plus fringe benefits¹ in FY 2009.

The Department of Public Utility Control (DPUC) will also need to

¹ The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The estimated first year fringe benefit rate for a new employee as a percentage of average salary is 25.8%, effective July 1, 2006. The first year fringe benefit costs for new positions do not include pension costs. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System (SERS). The SERS 2006-07 fringe benefit rate is 34.4%, which when combined with the non pension fringe benefit rate totals 60.2%.

adopt regulations outside of its area of expertise. To the extent that outside consultants are required to develop regulations, there could be a cost of \$100,000-\$150,000 for this purpose, which would be borne by electric companies. The state and municipalities as ratepayers could experience increased electricity costs, the extent of which cannot be determined at this time.

It is anticipated that the Department of Transportation will be able to accommodate any additional administrative functions resulting from the passage of the bill within its anticipated budgetary resources.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 1330*****AN ACT CONCERNING ENVIRONMENTAL JUSTICE.*****SUMMARY:**

This bill requires the Department of Environmental Protection (DEP), Department of Public Utility Control (DPUC), and Siting Council to adopt regulations that describe their procedures for considering the environmental and health effects of certain facilities in their permitting and other decision-making processes for construction or expansion of such facilities located in areas with concentrated poverty or that already have several of these facilities.

The bill also requires DEP, DPUC, and the Department of Transportation to adopt regulations describing actions they will take to identify opportunities and take appropriate action to encourage investments, remediation and redevelopment in these areas, provided these communities (presumably the municipalities in which they are located) have adopted local plans of development consistent with the state Plan of Conservation and Development. In both cases, the agencies must adopt the regulations by January 1, 2009.

EFFECTIVE DATE: October 1, 2007

CONSIDERING ENVIRONMENTAL AND HEALTH EFFECTS IN DECISION MAKING

The bill requires DEP, DPUC, and the Siting Council to adopt regulations that describe their procedures for considering the environmental and health effects of all existing facilities located within one mile of a proposed new or expanded facility in their licensing, permitting, authorizing and other decision-making processes when the new or expanded facility is in one of the covered areas. The bill applies to decisions made regarding the following types of facilities:

1. power plants;
2. sludge and solid waste incinerators or combustors;
3. sewage treatment plants with a capacity over 50 million gallons per day;
4. four types of solid waste facilities (intermediate processing centers, volume reduction facilities, multi-town recycling facilities, and active landfills);
5. asphalt and concrete batching facilities;
6. major sources of pollution under the Clean Air Act (e.g., large factories); and
7. sources emitting toxic substances in an amount that is subject to reporting requirements under the federal Community Right to Know Act.

The bill applies to two types of areas. The first type is “environmentally stressed communities” defined as census tracts that have (1) three or more of these facilities in a one-mile radius or (2) two of these facilities and a limited access highway within one half-mile. The second type of area is “environmental justice communities,” which include (1) environmentally stressed communities and other census tracts where half or more of the people not in institutions have incomes below 200% of the federal poverty level.

The regulations must describe how the agency addresses environmental and health effects of all existing facilities located within one mile of a proposed new or expanded facility that is located in a specified area. The procedures contained in the regulations must at least provide for (1) enhanced public notification and outreach to increase public participation, (2) requirements for negotiated environmental benefits to residents of the affected areas, and (3) enhanced enforcement of environmental laws and regulations for new and existing facilities in these areas.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 13 Nay 8 (03/13/2007)